

Senate File 2303

S-5098

1 Amend Senate File 2303 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <DIVISION I

5 SHAREHOLDER NOTICES, LISTS, AND RECORDS

6 Section 1. Section 490.140, Code 2022, is amended by adding  
7 the following new subsections:

8 NEW SUBSECTION. 12A. "*Electronic mail*" means an electronic  
9 transmission directed to a unique electronic mail address.

10 NEW SUBSECTION. 12B. "*Electronic mail address*" means a  
11 destination, commonly expressed as a string of characters,  
12 consisting of a unique user name or mailbox, commonly referred  
13 to as the "local part" of the address, and a reference to an  
14 internet domain, commonly referred to as the "domain part" of  
15 the address, whether or not displayed, to which electronic mail  
16 may be sent or delivered.

17 Sec. 2. Section 490.141, Code 2022, is amended to read as  
18 follows:

19 **490.141 Notices and other communications.**

20 1. A notice under **this chapter** must be in writing unless  
21 oral notice is reasonable in the circumstances. Unless  
22 otherwise agreed between the sender and the recipient, words  
23 in a notice or other communication under **this chapter** must be  
24 in English.

25 2. A notice or other communication may be given by  
26 any method of delivery, except that a notice or other  
27 communication by electronic transmissions transmission must be  
28 in accordance with **this section**. If the methods of delivery  
29 are impracticable, a notice or other communication from a  
30 corporation may be given by means of a broad nonexclusionary  
31 distribution to the public, which may include a newspaper  
32 of general circulation in the area where published; radio,  
33 television, or other form of public broadcast communication;  
34 or other methods of distribution that the corporation has  
35 previously identified to its shareholders.

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1     3. A notice or other communication to a domestic corporation  
2 or to a registered foreign corporation ~~registered to do~~  
3 ~~business in this state~~ may be delivered to the corporation's  
4 registered agent at its registered office or to the secretary  
5 at the corporation's principal office shown in its most recent  
6 biennial report required by [section 490.1621](#) or, in the case  
7 of a foreign corporation that has not yet delivered a biennial  
8 report, in its foreign registration statement.

9     4. A notice or other communication from a corporation  
10 to a shareholder may be delivered by electronic mail to the  
11 electronic mail address for a shareholder required to be  
12 included in the record of shareholders maintained pursuant  
13 to section 490.1601, subsection 4, unless the shareholder  
14 has previously notified the corporation in writing that  
15 the shareholder objects to receiving notices and other  
16 communication by electronic mail. Any notice or other  
17 communication may be delivered to a shareholder by another form  
18 of electronic transmission if consented to by the shareholder  
19 or if authorized by subsection 10. Any notice or other  
20 communication from the corporation to any other person may be  
21 delivered by electronic transmission if consented to by the  
22 recipient or if authorized by [subsection 10](#).

23     ~~5.~~ Any consent given under this subsection 4 or subsection  
24 10 may be revoked with respect to future notices or  
25 communications by the person who consented by giving written  
26 ~~or electronic~~ notice to the person to whom the consent was  
27 delivered. ~~Any such consent is deemed revoked~~

28     5. A notice or other communication shall no longer be  
29 delivered to an electronic mail address or other electronic  
30 transmission address pursuant to subsection 4, if all of the  
31 following apply:

32     a. The corporation is unable to deliver two consecutive  
33 electronic transmissions given by the corporation in  
34 accordance with such consent receives notice from the  
35 information processing system into which such notice or other

1 communication was entered that two consecutive notices or  
2 other communications given by electronic transmission have  
3 not been delivered to the electronic mail address or other  
4 electronic transmission address to which such notice or other  
5 communication was directed.

6 b. Such inability notice of nondelivery becomes known to the  
7 secretary, or an assistant secretary or to the transfer agent,  
8 or other another person responsible for the giving of notice  
9 notices or other communications for the corporation; provided,  
10 however, that the inadvertent failure to treat such inability  
11 as a revocation recognize such notice of nondelivery as a  
12 cessation of authority to provide a shareholder with notice  
13 by electronic mail or other electronic transmission shall not  
14 invalidate any meeting or other action.

15 6. Unless otherwise agreed between the sender and the  
16 recipient, ~~an~~ a notice or other communication by electronic  
17 transmission is received when all of the following apply:

18 a. The electronic transmission enters an information  
19 processing system that the recipient has designated or uses  
20 for the purposes of receiving electronic transmissions or  
21 information of the type sent, and from which the recipient is  
22 able to retrieve the directed to any of the following:

23 (1) In the case of a shareholder, the electronic mail  
24 address for the shareholder required to be included in the  
25 record of shareholders maintained pursuant to section 490.1601,  
26 subsection 4, or other electronic transmission address at  
27 which the shareholder has consented to receive notice or other  
28 communications by electronic transmission.

29 (2) In the case of any other recipient, the electronic  
30 transmission address at which the recipient has consented  
31 to receive notice or other communications by electronic  
32 transmission.

33 b. The electronic transmission is in a form capable of being  
34 processed by that system.

35 7. Receipt of an electronic acknowledgment from an

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1 information processing system described in subsection 6,  
2 paragraph "a", establishes that an electronic transmission was  
3 received but, by itself, does not establish that the content  
4 sent corresponds to the content received.

5 8. An electronic transmission is received under this  
6 section even if no person is aware of its receipt.

7 9. A notice or other communication, if in a comprehensible  
8 form or manner, is effective at the earliest of the following:

9 a. If in a physical form, the earliest of when it is  
10 actually received, or when it is left at any of the following:

11 (1) A shareholder's address ~~shown on~~ included in the  
12 ~~corporation's~~ record of shareholders maintained by the  
13 ~~corporation under~~ pursuant to subsection 4.

14 (2) A director's residence or usual place of business.

15 (3) The domestic or registered foreign corporation's  
16 principal office.

17 b. If mailed by United States mail postage prepaid and  
18 ~~correctly~~ addressed to a shareholder at the shareholder's  
19 address included in the record of shareholders pursuant to  
20 section 490.1601, subsection 4, upon deposit in the ~~United~~  
21 ~~States~~ mail.

22 c. If mailed by United States mail postage prepaid and  
23 ~~correctly~~ addressed to a recipient other than a shareholder, at  
24 the address included in the corporation's records the earliest  
25 of when it is actually received, or as follows:

26 (1) If sent by registered or certified mail, return receipt  
27 requested, the date shown on the return receipt signed by or on  
28 behalf of the addressee.

29 (2) Five days after it is deposited in the United States  
30 mail.

31 d. If an electronic transmission, when it is received as  
32 provided in subsection 6.

33 e. If oral, when communicated.

34 10. A notice or other communication may be in the form of  
35 an electronic transmission that cannot be directly reproduced

1 in paper form by the recipient through an automated process  
2 used in conventional commercial practice only if all of the  
3 following apply:

4     a. The electronic transmission is otherwise retrievable in  
5 perceivable form.

6     b. The sender and the recipient have consented in writing to  
7 the use of such form of electronic transmission.

8     11. If **this chapter** prescribes requirements for notices  
9 or other communications in particular circumstances, those  
10 requirements govern. If articles of incorporation or bylaws  
11 prescribe requirements for notices or other communications,  
12 not inconsistent with **this section** or other provisions of  
13 this chapter, those requirements govern. The articles of  
14 incorporation or bylaws may authorize or require delivery of  
15 notices of meetings of directors by electronic transmission.

16     12. In the event that any provisions of **this chapter** are  
17 deemed to modify, limit, or supersede the federal Electronic  
18 Signatures in Global and National Commerce Act, 15 U.S.C.  
19 ~~§§7001~~ §7001 et seq., the provisions of **this chapter** shall  
20 control to the maximum extent permitted by section 102(a)(2) of  
21 that federal Act.

22     13. a. Whenever notice would otherwise be required to  
23 be given under any provision of this ~~subchapter~~ **chapter**  
24 to a shareholder, ~~such~~ the notice need not be given if the  
25 corporation is not permitted to deliver notice by electronic  
26 transmission pursuant to subsections 4 and 5 and any of the  
27 following apply:

28         (1) Notices to the shareholders of two consecutive annual  
29 meetings, and all notices of meetings during the period  
30 between such two consecutive annual meetings, have been sent  
31 to such shareholder at such shareholder's address ~~as shown~~  
32 ~~on the records of the corporation~~ included in the record  
33 of shareholders maintained pursuant to section 490.1601,  
34 subsection 4, and have been returned undeliverable or could not  
35 be delivered.

1 (2) All, but not less than two, payments of dividends on  
2 securities during a twelve-month period, or two consecutive  
3 payments of dividends on securities during a period of more  
4 than twelve months, have been sent to such shareholder at  
5 such shareholder's address ~~as shown on the records of the~~  
6 corporation included in the record of shareholders maintained  
7 pursuant to section 490.1601, subsection 4, and have been  
8 returned undeliverable or could not be delivered.

9 (3) No address has been provided to the corporation by or on  
10 behalf of a shareholder and the corporation has not otherwise  
11 obtained an address for the shareholder that the corporation  
12 believes is reliable.

13 b. If In addition, if any such shareholder ~~shall deliver~~  
14 to which this subsection applies delivers to the corporation a  
15 written notice setting forth such shareholder's then-current  
16 address, the requirement that notice be given to such  
17 shareholder shall be reinstated.

18 Sec. 3. Section 490.720, Code 2022, is amended to read as  
19 follows:

20 **490.720 ~~Shareholders' list~~ List of shareholders for meeting.**

21 1. After fixing a record date for a meeting, a corporation  
22 shall prepare an alphabetical list of the names of all ~~its~~ the  
23 shareholders who are entitled to notice of ~~a~~ the shareholders'  
24 meeting. If the board of directors fixes a different record  
25 date under section 490.707, subsection 5, to determine the  
26 shareholders entitled to vote at the meeting, a corporation  
27 also shall prepare an alphabetical list of the names of  
28 all ~~its~~ the shareholders who are entitled to vote at the  
29 meeting. A The list must be arranged by voting group, and  
30 within each voting group by class or series of shares, and  
31 ~~show~~ contain the address of, and number and class or series  
32 of shares held by, each shareholder. ~~Nothing contained in~~  
33 ~~this subsection shall require~~ and, if the notice or other  
34 communications regarding the meeting has been or will be sent  
35 by the corporation to include on such list the a shareholder by

1 electronic mail ~~address~~ or other electronic ~~contact information~~  
2 ~~of a~~ transmission, the electronic mail or other electronic  
3 transmission address of that shareholder.

4 2. a. The ~~shareholders' list for~~ of shareholders entitled  
5 to notice shall be available for inspection by any shareholder,  
6 beginning two business days after notice of the meeting is  
7 given for which the list was prepared and continuing through  
8 the meeting. The ~~shareholders' list~~ list of shareholders for  
9 notice shall be made available ~~at~~ via any of the following:

10 (1) ~~The~~ At the corporation's principal office or at a place  
11 identified in the meeting notice in the city where the meeting  
12 will be held.

13 (2) A On a reasonably accessible electronic network,  
14 provided that the information required to gain access to such  
15 list is provided with the notice of the meeting. The list of  
16 shareholders entitled to vote shall be similarly available  
17 for inspection promptly after the record date for voting. In  
18 the event that the corporation determines to make the list  
19 available on an electronic network, the corporation may take  
20 reasonable steps to ensure that such information is available  
21 only to shareholders of the corporation.

22 b. ~~A shareholders' list for voting shall be similarly~~  
23 ~~available for inspection promptly after the record date for~~  
24 ~~voting.~~ A shareholder, or the shareholder's agent or attorney,  
25 is entitled on written demand to inspect and, subject to the  
26 requirements of section 490.1602, subsection 3, to copy a  
27 list of shareholders, during regular business hours and at  
28 the shareholder's expense, during the period it is available  
29 for inspection. A corporation may satisfy the shareholder's  
30 right to copy a list of shareholders by furnishing a copy  
31 in the manner described in section 490.1603, subsection 2.  
32 A shareholder and the shareholder's agent or attorney who  
33 inspects or is furnished a copy of a list of shareholders under  
34 this subsection or under subsection 3 or who copies the list  
35 under this subsection may use the information on that list only

1 for purposes related to the meeting and its subject matter and  
2 must keep the information on that list confidential.

3 3. If the meeting is to be held at a place, the corporation  
4 shall make the list of shareholders entitled to vote available  
5 at the meeting and any adjournment, and any shareholder, or the  
6 shareholder's agent or attorney, is entitled to inspect the  
7 list at any time during the meeting ~~or~~ and any adjournment.  
8 If the meeting is to be held solely by means of remote  
9 communication, then such list shall also be ~~open to~~ available  
10 for such inspection during the meeting and any adjournment on a  
11 reasonably accessible electronic network, and the information  
12 required to access such list shall be provided with the notice  
13 of the meeting. The corporation may satisfy its obligation  
14 to make such list available for inspection during a meeting  
15 by furnishing a copy of the list in the manner described in  
16 section 490.1603, subsection 2, to the shareholders prior to  
17 the meeting.

18 4. If the corporation refuses to allow a shareholder, or  
19 the shareholder's agent or attorney, to inspect a ~~shareholders'~~  
20 list of shareholders before or at the meeting or any  
21 adjournment, or copy a list as permitted by subsection 2, the  
22 district court of the county where a corporation's principal  
23 office or, if none in this state, its registered office, is  
24 located, on application of the shareholder, may summarily order  
25 the inspection or copying at the corporation's expense and may  
26 postpone the meeting for which the list was prepared until the  
27 inspection or copying is complete.

28 5. Refusal or failure to prepare or make available the  
29 ~~shareholders'~~ list of shareholders does not affect the validity  
30 of action taken at the meeting.

31 Sec. 4. Section 490.1601, subsection 4, Code 2022, is  
32 amended to read as follows:

33 4. A corporation shall maintain a record of its current  
34 shareholders in alphabetical order by class or series of shares  
35 showing the address of, ~~and the number and class or series of~~

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1 ~~shares held by,~~ each shareholder to which notices and other  
2 communications from the corporation are to be sent, and which  
3 shall include the number and class or series of shares held by  
4 each such shareholder. ~~Nothing contained in this subsection~~  
5 ~~shall require the corporation to include in such record the~~  
6 ~~electronic mail address or other electronic contact information~~  
7 of In addition, if a shareholder has provided an electronic  
8 mail address to the corporation or has consented to receive  
9 notices or other communications by electronic mail or other  
10 electronic transmission, the record of shareholders shall  
11 include the electronic mail or other electronic transmission  
12 address of the shareholder if notices or other communications  
13 are being delivered by the corporation to the shareholder at  
14 such electronic mail or other electronic transmission address  
15 pursuant to section 490.141, subsection 4. An electronic  
16 mail address of a shareholder shall be deemed to be provided  
17 by a shareholder if the electronic mail address is contained  
18 in a communication to the corporation by or on behalf of  
19 the shareholder unless the communication expressly indicates  
20 that the electronic mail address shall not be used to deliver  
21 notices or other communications.

22 DIVISION II

23 GRAMMATICAL CHANGES

24 Sec. 5. Section 490.140, subsection 57, Code 2022, is  
25 amended to read as follows:

26 57. "*United States*" includes a district, authority, bureau,  
27 commission, department, and any other agency of the United  
28 States.

29 Sec. 6. Section 490.143, subsection 1, paragraph e,  
30 subparagraph (2), Code 2022, is amended to read as follows:

31 (2) Has a material relationship with a director or officer  
32 who pursues or takes advantage of the business opportunity,  
33 directly~~7~~ or indirectly through or on behalf of another person.

34 Sec. 7. Section 490.1704, subsection 4, Code 2022, is  
35 amended to read as follows:

1 4. Unless otherwise provided in the articles of  
2 incorporation, the violation by a director of the duties  
3 imposed by subsections 1 and 2 shall not constitute an  
4 intentional infliction of harm on the corporation or the  
5 shareholders for the purposes of ~~sections~~ section 490.202,  
6 subsection 2, paragraphs "d" and "e".

7 DIVISION III

8 TERMINOLOGY CHANGES

9 Sec. 8. Section 490.120, subsection 5, Code 2022, is amended  
10 to read as follows:

11 5. The document must be in the English language. A  
12 corporate name need not be in English if written in English  
13 letters or Arabic or Roman numerals, and the certificate of  
14 ~~existence~~ registration required of foreign corporations need  
15 not be in English if accompanied by a reasonably authenticated  
16 English translation.

17 Sec. 9. Section 490.401, subsection 2, paragraphs c and e,  
18 Code 2022, are amended to read as follows:

19 c. The name of a registered foreign corporation ~~registered~~  
20 ~~to do business in this state~~ or an alternate name adopted by  
21 a registered foreign corporation ~~registered to do business in~~  
22 ~~this state~~ because its corporate name is unavailable.

23 e. The name of a foreign nonprofit corporation ~~registered~~  
24 authorized to do business in this state or an alternate  
25 name adopted by a foreign nonprofit corporation ~~registered~~  
26 authorized to conduct activities in this state because its real  
27 name is unavailable.

28 Sec. 10. Section 490.401, subsection 4, unnumbered  
29 paragraph 1, Code 2022, is amended to read as follows:

30 A corporation may use the name, including the fictitious  
31 name, of another domestic or foreign corporation that is used  
32 in this state if the other corporation is incorporated or  
33 ~~authorized~~ registered to ~~transact~~ do business in this state  
34 and the proposed user corporation submits documentation to the  
35 satisfaction of the secretary of state establishing any of the

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1 following conditions:

2 Sec. 11. Section 490.748, subsection 3, Code 2022, is  
3 amended to read as follows:

4 3. The district court may appoint an individual or domestic  
5 or registered foreign corporation, ~~registered to do business~~  
6 ~~in this state~~, as a custodian or receiver and may require the  
7 custodian or receiver to post bond, with or without sureties,  
8 in an amount the district court directs.

9 Sec. 12. Section 490.922, subsection 5, Code 2022, is  
10 amended to read as follows:

11 5. If the domesticating corporation is a registered  
12 foreign corporation ~~that is registered to do business in this~~  
13 ~~state under subchapter XV~~, its registration statement shall  
14 be canceled automatically when the domestication becomes  
15 effective.

16 Sec. 13. Section 490.1511, subsection 4, Code 2022, is  
17 amended to read as follows:

18 4. The registration of a registered foreign corporation  
19 ~~to do business in this state~~ ceases on the effective date  
20 of the termination as set forth in the certificate of  
21 termination, unless before that date the foreign corporation  
22 cures each ground for termination stated in the certificate of  
23 termination. If the foreign corporation cures each ground, the  
24 secretary of state shall file a statement that the certificate  
25 of termination is withdrawn.

26 Sec. 14. Section 490.1621, subsection 4, Code 2022, is  
27 amended to read as follows:

28 4. The first biennial report shall be delivered to the  
29 secretary of state between January 1 and April 1 of the first  
30 even-numbered year following the calendar year in which a  
31 domestic corporation was incorporated or a foreign corporation  
32 was ~~authorized to transact~~ registered to do business in this  
33 state. Subsequent biennial reports must be delivered to  
34 the secretary of state between January 1 and April 1 of the  
35 following even-numbered calendar years. For purposes of this

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1 section, each biennial report shall contain information related  
2 to the two-year period immediately preceding the calendar year  
3 in which the report is filed.

4 Sec. 15. Section 496C.20, subsection 3, Code 2022, is  
5 amended to read as follows:

6 3. The ~~certificate of authority~~ foreign registration  
7 statement of a foreign professional corporation may be revoked  
8 by the secretary of state as provided in the Iowa business  
9 corporation Act, [chapter 490](#), if the foreign professional  
10 corporation fails to comply with any provision of this  
11 chapter.>

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